



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/161506

PRELIMINARY RECITALS

Pursuant to a petition filed October 27, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on November 18, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's appeal of the denial of her BadgerCare (BC) application in 2008 is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 24, 2008 Petitioner applied for BadgerCare (BC) coverage.
3. On July 18, 2008 the agency sent Petitioner a notice stated that she was denied BC coverage because she was over the program income limits.

4. On August 11, 2008 Petitioner reported to the agency that her husband pays child support.
5. On November 26, 2008 another notice was mailed to Petitioner that she was over the program income limits.
6. On October 27, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.
7. Petitioner is concerned about BC coverage for September 2008. Petitioner testified that she had surgery in September 2008. She thought that the bills from her surgery were taken care until recently. She is now subject to collection efforts for those bills. She believes that she should have had BC at that time, and now seeks to appeal the 2008 denial of her BC application.

DISCUSSION

The Division of Hearings and Appeals only has jurisdiction to conduct hearings for BC+ when the hearing request was received within 45 days of the effective action date. *Wis. Stat. 49.45(5) (review is unavailable if the decision arose more than 45 days before submission of a petition for a hearing); see also Wis. Admin. Code HA 3.05(3) (the petitioner shall have 45 days from the effective date of the adverse action in which to file a hearing request).*

Here, Petitioner was required to file a Request for Fair Hearing no later than September 2, 2008 for the first denial, and no later than January 16, 2009 for her second denial. Petitioner filed her Request for fair hearing on October 27, 2014, approximately six years past her 45 day deadline. Petitioner received the notices, and states that only recently requested a Fair Hearing because only recently did her medical bills from September 2008 become an issue. Her Request for Fair Hearing was untimely, and I have no jurisdiction to address the merits of whether the county agency properly denied Petitioner BC coverage in 2008.

CONCLUSIONS OF LAW

The Request for Fair Hearing in October 2014 regarding the county agency's 2008 negative action notices is untimely.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of November, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 19, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability